

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

1331 PENNSYLVANIA AVE., N.W., SUITE 520N

WASHINGTON, DC 20004-1710

August 3, 2026

SECRETARY OF LABOR
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),

v.

CSI SANDS, NE, LTD.

Docket No. YORK 2026-0027
A.C. No. 30-03261-618200

Docket No. YORK 2026-0024
A.C. No. 30-03261-618200

BEFORE: Rajkovich, Chair; Jordan, and Baker, Commissioners

ORDER

BY THE COMMISSION:

These matters arise under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (2024) (“Mine Act”). On December 29, 2025, the Commission received from CSI Sands, NE, Ltd. (“CSI”) a motion seeking to reopen a penalty assessment that had become a final order of the Commission pursuant to section 105(a) of the Mine Act, 30 U.S.C. § 815(a).¹

Under section 105(a) of the Mine Act, an operator who wishes to contest a proposed penalty must notify the Secretary of Labor no later than 30 days after receiving the proposed penalty assessment. If the operator fails to notify the Secretary, the proposed penalty assessment is deemed a final order of the Commission. 30 U.S.C. § 815(a).

We have held, however, that in appropriate circumstances, we possess jurisdiction to reopen uncontested assessments that have become final Commission orders under section 105(a). *Jim Walter Res., Inc.*, 15 FMSHRC 782, 786-89 (May 1993) (“*JWR*”). In evaluating requests to reopen final orders, the Commission has found guidance in Rule 60(b) of the Federal Rules of Civil Procedure under which the Commission may relieve a party from a final order of the Commission on the basis of mistake, inadvertence, excusable neglect, or other reason justifying relief. *See* 29 C.F.R. § 2700.1(b) (“the Commission and its Judges shall be guided so far as practicable by the Federal Rules of Civil Procedure”); *JWR*, 15 FMSHRC at 787. We have also observed that default is a harsh remedy and that, if the defaulting party can make a showing of good cause for a failure to timely respond, the case may be reopened and appropriate proceedings on the merits permitted. *See Coal Prep. Servs., Inc.*, 17 FMSHRC 1529, 1530 (Sept. 1995).

¹ Two dockets were created for Assessment No. 000618200—Docket Nos. YORK 2026-0027 and YORK 2026-0024. Because these cases deal with the same assessment, they should be considered duplicate dockets and resolved in tandem. Accordingly, we hereby consolidate the two captioned dockets. 29 C.F.R. § 2700.12.

Records of the Department of Labor’s Mine Safety and Health Administration (“MSHA”) indicate that the proposed assessment was delivered on April 25, 2025, and became a final order of the Commission on May 26, 2025. A delinquency letter was mailed to the operator on July 10, 2025.

CSI asserts that its failure to timely contest the assessment was due to the unexpected departure of the plant manager during the contest period. It claims the plant manager left the assessment sitting on his desk and walked off the job, with no notice, on May 16, 2025. The assessment was discovered and contested on or around June 4, 2025, just ten days late.² CSI states that it has implemented procedures to prevent such mistakes in the future, including creating a backup database to log and track all citations and assessments.

CSI further asserts a good faith excuse for its delay in moving to reopen the assessment. It explains that it learned its contest was untimely in mid-June 2025 upon receiving a letter from MSHA, but that over the succeeding months counsel was busy litigating another seven dockets before the Commission (some of which “deserved priority”) while undergoing treatment for medical issues, and then the government shutdown in October 2025 made “further work impossible.” Mot. at 10.

The Secretary opposes the request to reopen, asserting both that the request is untimely and that CSI has failed to establish good cause to reopen. For the reasons below, we agree.

When an operator moves to reopen an assessment more than 30 days after learning that the assessment was not timely contested, the operator must provide a justification for the delay. *See Highland Mining Co.*, 31 FMSHRC 1313, 1316-17 (Nov. 2009). Here, CSI moved to reopen the assessment more than six months after learning that it had become final. We agree with the Secretary that the provided explanation does not justify the delay. Counsel notes that he was undergoing treatment for medical issues but concedes that he was able to work on legal matters between June and August 2025. He then claims he was too busy litigating those other matters to address the current matter but concedes that all litigation work stopped during the government shutdown. Mot. at 5. Simply choosing to prioritize other matters is not an adequate justification for delay. Regardless, counsel has not explained why the motion was not submitted until six weeks *after* the government shutdown ended. Counsel has not adequately explained why he was unable to file the instant motion at any point prior to December 29, 2025.

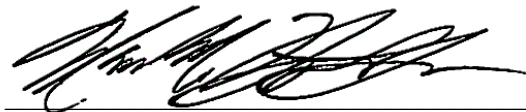
CSI has also failed to show good cause for its initial failure to timely contest the proposed assessment. The Commission has made it clear that where a failure to timely contest a proposed assessment results from an inadequate or unreliable internal processing system, the operator has not established grounds for reopening the assessment. *E.g.*, *Shelter Creek Capital, LLC*, 34 FMSHRC 3053, 3054 (Dec. 2012). We have also recognized that the failure to properly train

² CSI more broadly asserts that 2024 was a “difficult year” for the mine, as they had to deal with a roof collapse, an unresponsive contractor, a section 110(c) investigation, and personnel changes. Mot. at 1-2. We do not find this relevant to CSI’s failure to timely contest a proposed assessment that it received in *April 2025*.

employees may indicate that an operator's internal processing system is inadequate or unreliable. *See, e.g., Cumberland Contura, LLC*, 40 FMSHRC 1129, 1130 (Aug. 2018).

Here, CSI places responsibility on its plant manager, who set the assessment aside and then quit without notice on May 16, 2025. However, CSI admits that the plant manager's lack of qualifications became apparent shortly after he was hired, *which occurred in December 2024*. Mot. at 3. Rather than reassigning the task or ensuring the plant manager was properly trained, the operator knowingly left the contest process in the hands of an unqualified individual for five months. It then took more than two weeks to locate the proposed assessment in the plant manager's absence, suggesting inadequate oversight or redundancies in tracking citations and assessments.³ We conclude that the failure to timely contest the assessment was not solely the responsibility of a single unqualified individual, but the result of an inadequate and unreliable internal process for contesting assessments.

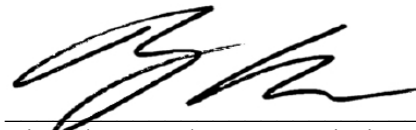
Accordingly, we deny CSI's motion.



Marco M. Rajkovich, Jr., Chair



Mary Lu Jordan, Commissioner



Timothy J. Baker, Commissioner

³ CSI asserts that it has created a database to track citations and assessments to prevent this issue from recurring. However, this proactive measure is counterbalanced by CSI's history of untimely contests. In November 2025, CSI moved to reopen two assessments which had become final nearly a year earlier, explaining its failure to timely contest on the fact that the employee tasked with handling assessments had left the mine. *CSI Sands, NE, Ltd.*, 48 FMSHRC ____ (July 2026). A history of failing to anticipate and address staff turnover supports a finding that CSI's internal processing system is inadequate or unreliable. *E.g., Peabody Gateway North Mining, LLC*, 47 FMSHRC 185, 186 (Mar. 2025). Moreover, CSI did not learn that those assessments had become final until September 2025, which suggests that CSI did not promptly institute its plan for backup database in June 2025 (when it discovered its error in the instant proceeding), or alternatively, that the database is not a successful tracking system.

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